IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

MONDAY, THE 18TH DECEMBER 2006 / 27TH AGRAHAYANA 1928

WP(C).No. 33443 of 2006(F)

PETITIONER:

SIDHI, S/O.PENATH KUNJAMU,
PERUMPULLY CHAVAKKAD DESOM,CHAVAKKAD AMSOM,
CHAVAKKAD TALUK, THRISSUR.

BY ADV. SRI.RAJIT

RESPONDENT:

CHOWALLURPADI KURIES AND LOANS
(P) LTD., THAIKAD, REPRESENTED BY ITS
MANAGING DIRECTOR.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.SASIDHARAN NAMBIAR,J.

W.P.(C)NO.33443 OF 2006

DATED THIS THE 18th DAY OF DECEMBER, 2006

JUDGMENT

Petitioner is the third judgment debtor in O.S. 1586/99 on the file of Munsiff Court, Chavakkad. He is challenging Ext.P2 order in this petition filed under Article 227 of Constitution of India.

2. Learned Counsel appearing for petitioner was heard.

3. Under Ext.P2 order, learned Munsiff held that respondent/decree holder did not adduce any evidence to prove that judgment debtors 2 and 4 have sufficient means to pay the decree debt and as they have pleaded no means, execution petition for their arrest and detention is not maintainable. Ext.P2 order also shows that no order of arrest was passed against judgment debtors 1 and 3 also. The order does not show that petitioner has not pleaded no means before the executing Court. The order does not show that petitioner has sufficient means and he is liable to be arrested. If petitioner has raised a contention that he has no means to pay the decree debt, before ordering his arrest, learned Munsiff must enter a finding that petitioner has sufficient means and he neglected to pay the decree debt. As the order does not provide for arrest of petitioner, there is no

merit in this petition. Petitioner was only directed to pay the decree amount.

Petition is disposed accordingly.

M.SASIDHARAN NAMBIAR,JUDGE

Acd